

STATE OF MINNESOTA INTERAGENCY AGREEMENT

This agreement is between the State of Minnesota, acting through its Commissioner of Commerce (“Commerce”) and the State of Minnesota, acting through its Commissioner of _____ (“Agency”).

Recitals

WHEREAS, the Commissioner of Administration delegated his authority under Minnesota Statute §16C.144 to the Commissioner of Commerce by means of an Interagency Agreement and Memorandum of Understanding dated as of April 26, 2012; and

WHEREAS, Commerce wishes to authorize the Agency to utilize the Minnesota Department of Commerce’s Guaranteed Energy Savings Program (GESP) under Minnesota Statute §16C.144 as a contracting option for guaranteed energy savings projects;

NOW, THEREFORE, in consideration of the administrative services offered to the Agency through the GESP as described herein, Commerce and the Agency hereby agree as follows:

Agreement

1 Term of Agreement

- 1.1 **Effective date:** _____, 20__, or the date Commerce obtains all required signatures under Minnesota Statutes §16C.05, subdivision 2, whichever is later.
- 1.2 **Expiration date:** When all contractual obligations of the parties to a GESP project pursuant to Minnesota Statute §16C.144 have been satisfied.

2 Agreement between the Parties

This Agreement authorizes the Agency to utilize any contracting options available to the Commissioner of Commerce under Minnesota Statute §16C.144 for a guaranteed energy savings program.

- 2.1 Commerce will provide the Agency with technical services to implement a GESP project in facilities owned by the Agency, including: project development assistance, project implementation over-sight, and annual project performance evaluation assistance.
- 2.2 The Agency agrees to:
 - 2.2.1 Utilize the Commerce GESP documents including: Master Contract, Lease Purchase Agreement, and Site-Specific Request for Proposal (RFP). All contract document changes shall be pre-approved by Commerce. The Site-Specific RFP shall be issued to all Contractors under the master contract program.
 - 2.2.2 Maintain data current in the State’s B3 Energy Benchmarking website for the facilities included in the GESP.
 - 2.2.3 Provide Commerce with a copy of the Annual Savings Measurement & Verification Report within 30 days of receipt from Contractor.
 - 2.2.4 The use of stipulated savings and project inflation assumptions in the project pro forma must be reviewed by Commerce and approved in writing by the Agency.
 - 2.2.5 Designate a qualified owner’s representative to oversee design and implemented measures in the terms and conditions of the work orders.
 - 2.2.6 Review plans and specifications and/or scope of work documents prior to providing authorization to proceed with the work.

3 Payment

Neither party to this Interagency Agreement shall pay any financial consideration to the other party.

4 Authorized Representatives

The State's Authorized Representative is **Peter Berger**, Guaranteed Energy Savings Program Manager, 612-296-2459, or his successor.

The Agency's Authorized Representative is [name, title, address _____, _____], or his/her successor.

5 Assignment, Amendments, Waiver, and Contract Complete

- 5.1 **Assignment.** The Agency may neither assign nor transfer any rights or obligations under this agreement without the prior consent of Commerce and a fully executed Assignment Agreement, executed and approved by the same parties who executed and approved this agreement, or their successors in office.
- 5.2 **Amendments.** Any amendment to this agreement must be in writing and will not be effective until it has been executed and approved by the same parties who executed and approved the original agreement, or their successors in office.
- 5.3 **Waiver.** If Commerce fails to enforce any provision of this agreement, that failure does not waive the provision or its right to enforce it.
- 5.4 **Contract Complete.** This agreement contains all negotiations and agreements between Commerce and the Agency. No other understanding regarding this agreement, whether written or oral, may be used to bind either party.

6 Liability

Each party will be responsible for its own acts and behavior and the results thereof to the extent authorized by law.

7 State Audits

Under Minnesota Statute §16C.05, subdivision 5, the Agency's books, records, documents, and accounting procedures and practices relevant to this agreement are subject to examination by Commerce and/or the State Auditor or Legislative Auditor, as appropriate, for a minimum of six years from the end of this agreement.

8 Government Data Practices

The Agency and Commerce must comply with the Minnesota Government Data Practices Act, Minnesota Statute Ch. 13, as it applies to all data provided by Commerce under this agreement, and as it applies to all data created, collected, received, stored, used, maintained, or disseminated by the Agency under this agreement. The civil remedies of Minnesota Statute §13.08 apply to the release of the data referred to in this clause by either the Agency or Commerce.

9 Venue

Venue for all legal proceedings out of this agreement, or its breach, must be in the appropriate state or federal court with competent jurisdiction in Ramsey County, Minnesota.

10 No Third Party Beneficiaries

There are no third party beneficiaries to this Agreement.

11 Termination

- 11.1 **Termination.** Commerce or the Agency may terminate this agreement at any time, with or without cause, upon 30 days' written notice to the other party.
- 11.2 **Termination for Insufficient Funding.** Commerce may immediately terminate this agreement if it does not obtain funding from the Minnesota Legislature, or other funding source; or if funding cannot be continued at a level sufficient to allow for the payment of the services covered here. Termination must be by written or fax notice to the Agency. Commerce will not be assessed any penalty if the agreement is terminated because of the decision of the Minnesota Legislature, or other funding source, not to appropriate funds. Commerce must provide the Agency notice of the lack of funding within a reasonable time of the State's receiving that notice.

1. STATE ENCUMBRANCE VERIFICATION

*Individual certifies that funds have been encumbered as required by Minnesota Statutes, Sections 16A.15 and 16C.05.
(with delegated authority)*

Signed: _____

Date: _____

Contract: _____

3. MN DEPARTMENT OF COMMERCE

(with delegated authority)

By: _____

Title: _____

Date: _____

2. AGENCY (Minnesota Department of _____)

The Agency certifies that the appropriate person(s) have executed the contract on behalf of the Agency as required by applicable laws.

By: _____

Title: _____

Date: _____

Distribution:

MN Department of Commerce

Governmental Unit

State's Authorize Representative – Photo Copy

By: _____

Title: _____

Date: _____